

§ 600.380

(2) Withholding advance payments otherwise due to the recipient.

(3) Taking other action permitted by statute or regulation.

(b) Except as otherwise provided by law, DOE may charge interest and administrative fees on an overdue debt in accordance with 31 CFR Chapter IX, parts 900-904, "Federal Claims Collection Standards."

ADDITIONAL PROVISIONS

§ 600.380 Purpose.

The purpose of "Additional Provisions" is to provide alternative requirements for recipients otherwise covered by this subpart D, when they are performing under Small Business Innovation Research grants.

§ 600.381 Special provisions for Small Business Innovation Research Grants.

(a) *General.* This section contains provisions applicable to the Small Business Innovation Research (SBIR) Program.

(b) *Provisions Applicable to Phase I SBIR Awards:* Phase I SBIR awards may be made on a fixed obligation basis, subject to the following requirements.

(1) While proposed costs must be analyzed in detail to ensure consistency with applicable cost principles, incurred costs are not subject to review under the standards of cost allowability.

(2) Although detailed budgets are submitted by a recipient and reviewed by DOE for purposes of establishing the amount to be awarded, budget categories are not stipulated in making an award;

(3) Prior approval from the DOE for rebudgeting among categories by the recipient is not required. Prior approval from DOE is required for any variation from the requirement that no more than one-third of Phase I work can be done by subcontractors or consortium partners;

(4) Pre-award expenditure approval is not required;

(5) Payments are to be made in the same manner as other financial assistance (see § 600.312), except that, when determined appropriate by the cog-

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nizant program official and contracting officer, a lump sum payment may be made. If a lump sum payment is made, the award must contain a condition that requires the recipient to return to DOE amounts remaining unexpended at the end of the project if those amounts exceed \$500;

(6) Recipients will certify in writing to the Contracting Officer at the end of the project that the activity was completed or the level of effort was expended. Should the activity or effort not be carried out, the recipient would be expected to make appropriate reimbursements;

(7) Requirements for periodic reports may be established for each award so long as they are consistent with § 600.341;

(8) Changes in principal investigator or project leader, scope of effort, or institution, require the prior approval of DOE.

(c) *Provision Applicable to Phase II SBIR Awards.* Phase II SBIR awards may be made for a single budget period of 24 months.

(d) *Provisions Applicable to Phase I and Phase II SBIR Awards.* (1) The prior approval of the cognizant DOE Contracting Officer is required before the final budget period of the project period may be extended without additional funds.

(2) A fee or profit may be paid to SBIR recipients.

APPENDIX A TO SUBPART D TO PART 600—PATENT AND DATA PROVISIONS

1. Patent Rights (Small Business Firms and Nonprofit Organizations)
2. Patent Rights (Large Business Firms)—No Waiver
3. Rights in Data—General
4. Rights in Data—Programs Covered Under Special Protected Data Statutes

PATENT RIGHTS (SMALL BUSINESS FIRMS AND NONPROFIT ORGANIZATIONS)

(a) Definitions

Invention means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*).

Made when used in relation to any invention means the conception or first actual reduction to practice of such invention.